



General Assembly

Amendment

January Session, 2007

LCO No. 7358

HB0563907358HDO

Offered by:

REP. VILLANO, 91st Dist.

REP. WALKER, 93rd Dist.

To: Subst. House Bill No. 5639

File No. 694

Cal. No. 537

"AN ACT CONCERNING THE CLOSING OF A LONG-TERM CARE FACILITY."

1 Strike lines 41-76 in their entirety and substitute the following in
2 lieu thereof:

3 "(c) In conducting its activities pursuant to this section, section 17b-
4 352 or both, the commissioner or said commissioner's designee [may]
5 shall hold a public hearing [on an] upon the earliest occurrence of: (1)
6 Receipt of any letter of intent submitted by a facility to the department,
7 or (2) receipt of any certificate of need application [or on more than
8 one application, if such applications are of a similar nature with
9 respect to the request. At least two weeks' notice of the hearing shall be
10 given to the] submitted by a facility. The commissioner, or the
11 commissioner's designee shall provide both the facility and the public
12 with notice of the date of the hearing not less than fourteen days in
13 advance of such date. Notice to the facility shall be by certified mail
14 and notice to the public shall be by publication in a newspaper having
15 a substantial circulation in the area served by the facility. Such hearing

16 shall be held at the [discretion of the commissioner in Hartford or in
17 the area so served] facility for which the letter of intent or certificate of
18 need application was submitted not later than thirty days after the date
19 on which such letter or application was received by the commissioner.
20 The commissioner or said commissioner's designee shall consider such
21 request in relation to the community or regional need for such capital
22 program or purchase of land, the possible effect on the operating costs
23 of the facility and such other relevant factors as the commissioner or
24 said commissioner's designee deems necessary. In approving or
25 modifying such request, the commissioner or said commissioner's
26 designee may not prescribe any condition, such as, but not limited to,
27 any condition or limitation on the indebtedness of the facility in
28 connection with a bond issued, the principal amount of any bond
29 issued or any other details or particulars related to the financing of
30 such capital expenditure, not directly related to the scope of such
31 capital program and within the control of the facility. If the hearing is
32 conducted by a designee of the commissioner, the designee shall
33 submit any findings and recommendations to the commissioner. The
34 commissioner shall grant, modify or deny such request within ninety
35 days, except as provided for in this section. Upon the request of the
36 applicant, the review period may be extended for an additional fifteen
37 days if the commissioner or said commissioner's designee has
38 requested additional information subsequent to the commencement of
39 the review period. The commissioner or said commissioner's designee
40 may extend the review period for a maximum of thirty days if the
41 applicant has not filed in a timely manner information deemed
42 necessary by the commissioner or said commissioner's designee. No
43 facility shall be allowed to close, terminate a service or decrease
44 substantially its total bed capacity until such time as a public hearing
45 has been held in accordance with the provisions of this section and the
46 commissioner has approved the facility's request. The commissioner
47 may impose a civil penalty of not more than five thousand dollars on
48 any facility that fails to comply with the provisions of this subsection.
49 Penalty payments received by the commissioner pursuant to this
50 subsection shall be deposited in the special fund established by the

51 department pursuant to subsection (c) of section 17b-357 and used for
52 the purposes specified in said subsection (c)."

53 After the last section, add the following and renumber sections and
54 internal references accordingly:

55 "Sec. 501. Subsection (b) of section 19a-545 of the general statutes is
56 repealed and the following is substituted in lieu thereof (*Effective July*
57 *1, 2007*):

58 (b) Not later than ninety days after appointment as a receiver, such
59 receiver shall take all necessary steps to stabilize the operation of the
60 facility in order to ensure the health, safety and welfare of the residents
61 of such facility. In addition, within a reasonable time period after the
62 date of appointment, not to exceed six months, the receiver shall: (1)
63 Determine whether the facility can continue to operate and provide
64 adequate care to residents in substantial compliance with applicable
65 federal and state law within the facility's state payments as established
66 by the Commissioner of Social Services pursuant to subsection (f) of
67 section 17b-340, together with income from self-pay residents,
68 Medicare payments and other current income and shall report such
69 determination to the court; [and] (2) determine the amount of state
70 payments that would be necessary to continue to operate the facility in
71 a manner that provides adequate care to residents in compliance with
72 applicable federal and state law, together with income from self-pay
73 residents, Medicare payments and other current income, if the existing
74 rate is determined by the receiver to be inadequate to continue the
75 facility's operations, and shall report such determination to the court;
76 and (3) seek facility purchase proposals. If the receiver determines that
77 the facility will be unable to continue to operate in compliance with
78 said requirements, the receiver shall request an [immediate] order of
79 the court to close the facility and, if granted, make arrangements for
80 the orderly transfer of residents pursuant to subsection (a) of this
81 section unless the receiver determines that a transfer of the facility to a
82 qualified purchaser is expected [within ninety days] during the six-
83 month period commencing on the date of the receiver's appointment

84 or within a reasonable period of time if beyond six months. If a
85 transfer is not completed within [one hundred eighty days of the
86 appointment of the receiver] such period and all purchase and sale
87 proposal efforts have been exhausted, the receiver shall request an
88 immediate order of the court to close the facility and make
89 arrangements for the orderly transfer of residents pursuant to
90 subsection (a) of this section.

91 Sec. 502. Subdivision (16) of subsection (f) of section 17b-340 of the
92 general statutes is repealed and the following is substituted in lieu
93 thereof (*Effective July 1, 2007*):

94 (16) The interim rate established to become effective upon sale of
95 any licensed chronic and convalescent home or rest home with nursing
96 supervision for which a receivership has been imposed pursuant to
97 sections 19a-541 to 19a-549, inclusive, shall not exceed the rate in effect
98 for the facility at the time of the imposition of the receivership, subject
99 to any annual increases permitted by this section; provided [if such
100 rate is less than the median rate for the facility's peer grouping, as
101 defined in subdivision (2) of this subsection,] the Commissioner of
102 Social Services may, in the commissioner's discretion, and after
103 consultation with the receiver, establish an increased rate for the
104 facility [not to exceed such median rate unless the Secretary of the
105 Office of Policy and Management, after review of area nursing facility
106 bed availability and other pertinent factors, authorizes the
107 Commissioner of Social Services to establish a rate higher than the
108 median rate. In the event the rate in effect for the facility at the time of
109 imposition of the receivership is greater than the median rate for the
110 facility's peer grouping, as defined in subdivision (2) of this subsection,
111 the Secretary of the Office of Policy and Management, after review of
112 area nursing facility bed availability and other pertinent factors, may
113 authorize the Commissioner of Social Services to establish an increased
114 interim rate] if the commissioner determines that such higher rate is
115 needed to keep the facility open and to ensure the health, safety and
116 welfare of the residents at such facility."